

NOTICE OF MEETING OF THE UNDERGROUND STORAGE TANK POLICY COMMISSION EVALUATION SUBCOMMITTEE

Pursuant to Arizona Revised Statutes (A.R.S.) § 38-431.02, notice is hereby given to the members of the Underground Storage Tank (UST) Policy Commission and to the general public that the Evaluation Subcommittee of the UST Policy Commission will hold a meeting open to the public on **November 1, 2007**, 2:00 p.m. to 4:00 p.m. at the **Arizona Department of Environmental Quality (ADEQ), 1110 West Washington, Room 4001B, Phoenix, Arizona**. The Subcommittee may discuss, deliberate or vote on any item listed on the agenda. The Subcommittee may vote to hold an executive session for consultation with its attorney for legal advice pursuant to A.R.S. § 38-431.03 (A) (3) concerning any item on the agenda.

1. Call to Order: Bill Bunch, Chairperson
2. Review and discussion of ADEQ's proposed language for implementation of UST requirements of the Energy Act of 2005.
3. Date and Time of Next Meeting: Next meeting of the Evaluation Subcommittee is scheduled for January 3, 2008, ADEQ, Room 4001B at 2:00 p.m.
4. Adjourn

Call to the Public is for consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or rescheduling the matter for further consideration, discussion and decision at a later date.

A copy of the agenda background material provided to commission members (with exception of material relating to possible executive session) is available for public inspection at the ADEQ reception area, 1110 W. Washington Street, Phoenix, Arizona. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Donna Walker at (602) 771-4262. Requests should be made as early as possible to allow time to arrange the accommodation.

ENERGY POLICY ACT OF 2005
UST COMPLIANCE ACT
PROPOSED ARIZONA UST STATUTORY REVISIONS (DRAFT)

49-1001. Definitions

In this chapter, unless the context otherwise requires:

1. "Being used" means not having been taken out of operation.
2. "Closure" means the removal of an underground storage tank from operation.
3. "Corrective actions" means those actions that are prescribed pursuant to section 49-1005.
4. "Designated representative" means a person to whom an owner or an operator, or both, assign in writing any right, title or interest which the owner or operator, or both, may have in and to the proceeds of a reimbursement for a corrective action made under article 3 of this chapter.
5. "ENERGY POLICY ACT" MEANS THE UNDERGROUND STORAGE TANK COMPLIANCE ACT, TITLE XV, SUBTITLE B OF THE FEDERAL ENERGY POLICY ACT OF 2005 (P.L. 109-58; 119 STAT. 1092; 42 UNITED STATES CODE SECTIONS 6991 ET SEQ.), AS AMENDED.
6. "Fiduciary" means:
 - (a) A trust company or bank certified or authorized to engage in the trust business pursuant to title 6, chapter 8, article 1.
 - (b) Any person appointed by a court or testamentary act to act as personal representative, executor, trustee, administrator, guardian, conservator, receiver or trustee in bankruptcy.
 - (c) Any person acting as a trustee of a deed of trust pursuant to section 33-803.
 - (d) Any person acting as a trustee pursuant to title 14, chapter 7.
 - (e) Any person acting pursuant to and subject to fiduciary obligations under the employee retirement income security act of 1974, 29 United States Code sections 1101 through 1114.
7. "Guarantor" means a person, other than an owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to this chapter.
8. "Motor fuel" means petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, number 1 or number 2 diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine.
9. "NEW COMPONENT" MEANS ANY UNDERGROUND PIPE OR COMBINATION OF PIPES, WHICH CONTAINS AND CONVEYS A REGULATED SUBSTANCE BETWEEN A TANK AND A MOTOR FUEL DISPENSER SYSTEM, INCLUDING ANY VALVE, ELBOW, CONNECTOR AND JOINT, THAT IS ADDED TO AN UNDERGROUND STORAGE TANK ON AND AFTER JANUARY 1, 2009 AND THAT WAS NOT ORIGINALLY INCLUDED OR INSTALLED AS PART OF THE UNDERGROUND STORAGE TANK.
10. "Occurrence" means an incident or accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank.
11. "Operator" means a person in control of, or having responsibility for, the day-to-day operation of an underground storage tank.
12. "Out of operation" means having been closed in accordance with all applicable fire codes and other statutory and regulatory requirements for closure in effect on the date that closure was accomplished.

13. "Person" means an individual, trust, firm, joint stock company, corporation, joint venture, partnership, association, consortium, state, municipality, interstate body, commission, political subdivision of a state and the United States government.

14. "Petroleum" means petroleum, including crude oil or any fraction of crude oil, which is liquid at sixty degrees Fahrenheit and 14.7 pounds per square inch absolute, and petroleum based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, residual fuel oils, lubricants, jet fuels, distillate fuel oils, petroleum solvents and used oils.

15. "Political subdivision" means a county, city, town or other taxing district other than the state that is authorized to take property by eminent domain.

16. "Regulated substance" means:

(a) Petroleum.

(b) A substance specified in the comprehensive environmental response, compensation, and liability act of 1980 (P.L. 96-510; 94 Stat. 2767; 42 United States Code section 9601(14)) but not including a substance regulated as a hazardous waste under the solid waste disposal act of 1984 (P.L. 98-616; 98 Stat. 3221; 42 United States Code section 6921).

17. "Release" means a spill, leak, emission, discharge, escape, leach or disposal of a regulated substance from an underground storage tank into groundwater, surface water or soils.

18. "Suspected release" means any of the following:

(a) The discovery by owners and operators or others of released regulated substances at the underground storage tank site or in the surrounding area.

(b) Erratic behavior of regulated substance dispensing equipment, the sudden loss of a regulated substance from an underground storage tank, an unexplained presence of water in the underground storage tank or other extraordinary operating conditions that could reasonably be associated with a release from an underground storage tank and that are observed by owners and operators, unless system equipment is found to be defective but not leaking and is repaired or replaced immediately.

(c) That the monitoring results from a release detection method required under 40 Code of Federal Regulations sections 280.41 and 280.42, this chapter or rules adopted pursuant to this chapter indicate that a release may have occurred unless either of the following occurs:

(i) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced and additional monitoring data do not confirm the initial result.

(ii) In the case of inventory control, a second month of inventory reconciliation data does not confirm the initial result.

19. "Tank" means a stationary device constructed of wood, concrete, steel, plastic or other nonearthen materials and used to contain regulated substances.

20. "UNDER-DISPENSER CONTAINMENT" MEANS A SECONDARY CONTAINMENT DEVICE BENEATH A MOTOR FUEL DISPENSER SYSTEM THAT IS CONNECTED TO THE UNDERGROUND STORAGE TANK SYSTEM AND THAT IS DESIGNED TO BE LIQUID TIGHT.

21. "Underground storage tank" means a tank or combination of tanks and underground pipes and impact valves connected to tanks being used or having been used to contain regulated substances and which has at least ten per cent of the total volume of the tank and

underground portions of pipes connected to the tank underground. Underground storage tank does not mean any of the following:

- (a) A farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes.
- (b) A tank used for storing heating oil for consumptive use on the premises where stored.
- (c) A septic tank.
- (d) A pipeline facility, including gathering lines, regulated under either:
 - (i) The natural gas pipeline safety act of 1968 (49 United States Code sections 1671 through 1686).
 - (ii) The hazardous liquid pipeline safety act of 1979 (49 United States Code section 2001).
- (e) An intrastate pipeline facility regulated under a state law comparable to the provisions of law referred to in subdivision (d), item (i) or (ii).
- (f) A surface impoundment, pit, pond or lagoon.
- (g) A storm water or wastewater collection system.
- (h) A flow-through process tank.
- (i) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
- (j) A storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is situated on or above the surface of the floor.
- (k) Pipes connected to any of the structures described in subdivisions (a) through (j).

49-1002. Notification requirements; exemptions

A. Except as otherwise provided in this section, each owner of an underground storage tank shall notify the department in writing and shall specify the tank's age, size, type, location and use.

B. For an underground storage tank that was taken out of operation on or before January 1, 1974, regardless of whether the tank was removed from the ground, the owner is exempt from giving notice.

C. For an underground storage tank that was taken out of operation after January 1, 1974 but before November 8, 1984 and that was removed from the ground, the owner is exempt from giving notice.

D. For an underground storage tank that was taken out of operation after January 1, 1974 but before November 8, 1984 and that was not removed from the ground, the owner shall specify the type and quantity of the substances that were stored in the tank immediately before it was taken out of operation. These requirements are in addition to the requirements for notice prescribed in subsection A.

E. For an underground storage tank that was taken out of operation after November 8, 1984 but before December 22, 1988 the director may require the owner to make reasonable efforts to specify the age, size, location and use of the tank, the type and quantity of the substances that were stored in the tank immediately before it was taken out of operation and the date of its removal from operation.

F. An owner who brings an underground storage tank into operation shall meet the notification requirements of this section within thirty days after the tank is brought into operation. **AN OWNER WHO BRINGS A NEW COMPONENT OR UNDER-DISPENSER CONTAINMENT INTO OPERATION ON AND AFTER JANUARY 1, 2009 SHALL MEET THE NOTIFICATION REQUIREMENTS OF THIS SECTION WITHIN THIRTY DAYS AFTER THE NEW COMPONENT OR UNDER-DISPENSER CONTAINMENT IS BROUGHT INTO OPERATION.**

G. A person who sells a tank for use as an underground storage tank shall notify the purchaser of the notice requirements of subsection F.

H. The notices required by this section shall be made on forms prescribed by the department.

49-1003. Detection of releases; record keeping requirements

A. Until the rules adopted pursuant to subsection C are in effect, the owner and operator of an underground storage tank shall maintain a release detection system that complies with the requirements of 40 code of federal regulations **SECTIONS 280.40 through 280.44.**

B. Until the rules adopted pursuant to subsection C are in effect, the owner and operator of an underground storage tank shall maintain systematic and complete records of release detection information that complies with the requirements of 40 code of federal regulations **SECTION 280.45.**

C. The director shall adopt rules establishing release detection requirements and release detection record keeping requirements. The rules adopted pursuant to this subsection shall be consistent with and no more stringent than the federal regulations in effect on the date on which the rules are adopted.

49-1009. Tank performance standards

A. No person may install an underground storage tank unless the UNDERGROUND STORAGE tank meets all of the following requirements:

1. Is designed to prevent releases due to corrosion or structural failure for the operational life of the tank.
2. Is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material or designed in a manner to prevent the release of a regulated substance.
3. The material used in the construction or lining of the tank is compatible with the substance to be stored.

B. NO PERSON SHALL INSTALL AN UNDERGROUND STORAGE TANK ON AND AFTER JANUARY 1, 2009 UNLESS THE UNDERGROUND STORAGE TANK MEETS THE SECONDARY CONTAINMENT AND RELEASE DETECTION REQUIREMENTS FOR HAZARDOUS SUBSTANCE UNDERGROUND STORAGE TANK SYSTEMS OF 40 CODE OF FEDERAL REGULATIONS SECTION 280.42 AND THE INTERSTITIAL MONITORING REQUIREMENTS OF 40 CODE OF FEDERAL REGULATIONS SECTION 280.43, SUBSECTION G.

C. NO PERSON SHALL INSTALL A NEW COMPONENT ON AND AFTER JANUARY 1, 2009 THAT IS TWENTY-FIVE PER CENT OR MORE OF THE TOTAL LINEAR FOOTAGE OF ALL CONNECTED

PIPING OF THE UNDERGROUND STORAGE TANK UNLESS ALL CONNECTED PIPING OF THE UNDERGROUND STORAGE TANK IS BROUGHT INTO COMPLIANCE WITH THE SECONDARY CONTAINMENT AND RELEASE DETECTION REQUIREMENTS FOR HAZARDOUS SUBSTANCE UNDERGROUND STORAGE TANK SYSTEMS OF 40 CODE OF FEDERAL REGULATIONS SECTION 280.42 AND THE INTERSTITIAL MONITORING REQUIREMENTS OF 40 CODE OF FEDERAL REGULATIONS SECTION 280.43, SUBSECTION G.

D. AN OWNER OR OPERATOR WHO INSTALLS OR REPLACES A MOTOR FUEL DISPENSER SYSTEM ON AND AFTER JANUARY 1, 2009 THAT CONNECTS TO AN UNDERGROUND STORAGE TANK SYSTEM SHALL INSTALL UNDER-DISPENSER CONTAINMENT. THE UNDER-DISPENSER CONTAINMENT SHALL MEET THE REQUIREMENTS OF 40 CODE OF FEDERAL REGULATIONS SECTION 280.42, SUBSECTION B, PARAGRAPH 1.

E. The owner and operator of an underground storage tank shall use an underground storage tank, **NEW COMPONENT, UNDER-DISPENSER CONTAINMENT AND ANY SECONDARY CONTAINMENT MATERIAL** made of or lined with materials that are compatible with the regulated substance stored in or dispensed from the underground storage tank.

F. The director may adopt rules specifying design, construction, installation, performance and compatibility standards for underground storage tanks. The rules adopted pursuant to this subsection shall be consistent with and no more stringent than federal regulations in effect on the date on which the rules are adopted.

G. The director may require an owner and operator of an underground storage tank to perform or cause to be performed a tank test to determine compliance with the standards established pursuant to this section.

49-1013. Enforcement and penalties

A. If the director determines that a person is in violation of this chapter or the rules adopted pursuant to this chapter the director may issue an order requiring compliance within a reasonable time. A compliance order becomes final thirty days after the order is served unless within thirty days of service the person named on the order requests a hearing. A hearing shall be conducted pursuant to title 41, chapter 6, article 10. A compliance order that is the subject of a hearing as prescribed by this section becomes final and subject to appeal on the decision of the director to uphold the compliance order. Except as provided in section 41-1092.08, subsection H, the director's final decision may be appealed by any party to the superior court pursuant to title 12, chapter 7, article 6. A person becomes the subject of an enforcement proceeding pursuant to this chapter when a compliance order against that person becomes final.

B. If a person fails to comply with a final order under this section within the time specified in the order, the person is subject to a civil penalty of not to exceed twenty-five thousand dollars for each day of continued noncompliance.

C. An owner who knowingly fails to notify or submits false information pursuant to section 49-1002 is subject to a civil penalty of not to exceed ten thousand dollars for each UNDERGROUND STORAGE tank for which notification is not given or false information is submitted.

D. An owner or operator of an underground storage tank who fails to comply with any of the requirements or standards of this chapter is subject to a civil penalty of not to exceed ten thousand dollars for each UNDERGROUND STORAGE tank for each day of violation.

E. A PRODUCT DELIVERER WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF SECTION 49-1097, SUBSECTION A, IS SUBJECT TO A CIVIL PENALTY OF NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH UNDERGROUND STORAGE TANK FOR EACH VIOLATION.

F. The penalties provided for in this section shall not be cumulated with any penalties sought and obtained by the department or the United States pursuant to title VI of the hazardous and solid waste amendments of 1984 (P.L. 98-616; 98 Stat. 3221).

G. The director may file an action in the superior court to enforce this chapter and to collect penalties for violations of this chapter. The director may seek all appropriate relief including temporary and permanent injunctions.

H. All monies collected under the penalty provisions of this section shall be deposited in the state general fund.

49-1021. Applicability

Until rules adopted pursuant to this chapter are in effect, this chapter shall apply only to the extent described by 40 code of federal regulations **SECTION 280.10 AND THE ENERGY POLICY ACT**. Rules adopted pursuant to this chapter shall apply only to underground storage tanks not excluded or deferred by the federal regulations in effect on the date on which the rules are adopted.

ARTICLE 5. CERTIFICATION, TRAINING AND RECORDKEEPING

49-1081. Definitions

In this article, unless the context otherwise requires:

1. "ATTENDED FACILITY" MEANS AN UNDERGROUND STORAGE TANK FACILITY AT WHICH IT IS THE USUAL AND CUSTOMARY PRACTICE FOR THE OWNER OR OPERATOR, OR ANY EMPLOYEE OF THE OWNER OR OPERATOR TO BE PRESENT ON SITE DURING NORMAL HOURS OF OPERATION.
2. "CLASS A INDIVIDUAL" MEANS A PERSON DESIGNATED BY THE OWNER OR OPERATOR AS HAVING PRIMARY MANAGEMENT RESPONSIBILITY OR DECISION-MAKING AUTHORITY FOR THE OPERATION, MAINTENANCE AND RECORDKEEPING OF AN UNDERGROUND STORAGE TANK FACILITY. THE PERSON MAY OR MAY NOT BE THE OWNER OR OPERATOR.
3. "CLASS B INDIVIDUAL" MEANS A PERSON DESIGNATED BY THE OWNER OR OPERATOR AS HAVING DAILY RESPONSIBILITY FOR THE OPERATION, MAINTENANCE AND RECORDKEEPING OF AN UNDERGROUND STORAGE TANK FACILITY. THE PERSON MAY OR MAY NOT BE THE OWNER OR OPERATOR.
4. "CLASS C INDIVIDUAL" MEANS A PERSON DESIGNATED BY THE OWNER OR OPERATOR AS HAVING DAILY RESPONSIBILITY FOR AN INITIAL RESPONSE TO AN ALARM OR OTHER INDICATION OF AN EMERGENCY CAUSED BY A RELEASE OR SUSPECTED RELEASE FROM AN UNDERGROUND STORAGE TANK. THE PERSON MAY OR MAY NOT BE THE OWNER OR OPERATOR.

5. "Supervision" means the immediate, on-site control and direction by a person certified by the department in accordance with **SECTION 49-1082** and the rules adopted pursuant to **SECTION 49-1082**, of a person who is performing tank service and who is not certified in accordance with **SECTION 49-1082** and the rules adopted pursuant to **SECTION 49-1082**.
6. "Tank service" means installation, retrofitting, tank tightness testing, closure, cathodic protection or interior tank lining of an underground storage tank or a part of an underground storage tank.

49-1082. Certification of underground storage tank service providers; rules; suspension or revocation of certification

- A. Beginning from and after December 31, 1996, a person shall not perform tank services on an underground storage tank system unless the person is certified in accordance with this **SECTION** and the rules adopted pursuant to this **SECTION**, or is supervised by a person certified in accordance with this **SECTION** and the rules adopted pursuant to this **SECTION**.
- B. The department shall not certify a person as a tank service provider until that person completes the requirements of this **SECTION** and the rules adopted pursuant to this **SECTION**. In accordance with subsection D, the supervisor is responsible for all persons performing work under the supervisor and any violations of this **SECTION** or rules adopted pursuant to this **SECTION** are attributable to the supervisor.
- C. By January 1, 1997, the department shall adopt rules for the establishment and maintenance of an underground storage tank service provider certification program. The certification program shall include the submittal and verification of information that the director determines is necessary to ensure that the tank service provider possesses and maintains the essential knowledge, skills and work history to perform the service effectively and in a manner that protects human health and the environment. The department may establish separate certification methods for each area of tank service as it is defined, and may define the duration of the certification period, which shall be at least one year.
- D. The department, upon reasonable evidence, may suspend or revoke the certification of any person who fails to maintain the standards established pursuant to this **SECTION** or who exhibits incompetence, negligence or fraud in performing the certified activity or in other work relating to the certified activity. A person whose certification is revoked or suspended pursuant to this subsection may appeal the decision pursuant to title 41, chapter 6, article 10.

49-1083. DESIGNATION; TRAINING; RECORDKEEPING REQUIREMENTS

- A. BEGINNING FROM AND AFTER AUGUST 8, 2012, AN OWNER OR OPERATOR SHALL DESIGNATE A CLASS A INDIVIDUAL THAT MUST BE TRAINED IN ACCORDANCE WITH SUBSECTIONS E AND F OF THIS SECTION WITHIN THIRTY DAYS OR ANOTHER PERIOD SPECIFIED BY THE DIRECTOR AFTER BEING DESIGNATED BY THE OWNER OR OPERATOR.
- B. BEGINNING FROM AND AFTER AUGUST 8, 2012, AN OWNER OR OPERATOR MUST DESIGNATE A CLASS B INDIVIDUAL THAT MUST BE TRAINED IN ACCORDANCE WITH

SUBSECTIONS E AND F OF THIS SECTION WITHIN THIRTY DAYS OR ANOTHER PERIOD SPECIFIED BY THE DIRECTOR AFTER BEING DESIGNATED BY THE OWNER OR OPERATOR.

C. BEGINNING FROM AND AFTER AUGUST 8, 2012, AN OWNER OR OPERATOR MUST DESIGNATE ONE OR MORE CLASS C INDIVIDUALS THAT MUST BE TRAINED IN ACCORDANCE WITH SUBSECTIONS E AND F OF THIS SECTION BEFORE ASSUMING THE ROLE OF A CLASS C INDIVIDUAL. FOR AN ATTENDED FACILITY, A CLASS C INDIVIDUAL MUST BE ON SITE DURING THE USUAL AND CUSTOMARY HOURS OF OPERATION.

D. THE CLASS A INDIVIDUAL AND CLASS B INDIVIDUAL SHALL BE RETRAINED IF THE DEPARTMENT DETERMINES THAT AN UNDERGROUND STORAGE TANK AT THE FACILITY IS NOT EQUIPPED AND OPERATED IN ACCORDANCE WITH RELEASE DETECTION, CORROSION PROTECTION, SPILL PREVENTION, AND OVERFILL PROTECTION MEETING THE REQUIREMENTS OF SECTIONS 49-1003, 49-1009, AND 49-1097, AND THE RULES MADE THEREUNDER, AS APPLICABLE. DOCUMENTATION OF THE RETRAINING MUST BE MAINTAINED IN ACCORDANCE WITH SUBSECTION G OF THIS SECTION.

E. THE DURATION FOR WHICH TRAINING IS VALID SHALL BE ESTABLISHED BY THE DEPARTMENT AND SHALL NOT BE LESS THAN ONE YEAR AND NOT MORE THAN THREE YEARS.

F. THE TRAINING SHALL BE IN A FORMAT APPROVED BY THE DEPARTMENT AND SHALL INCLUDE THE FOLLOWING:

1. FOR A CLASS A INDIVIDUAL, THE REQUIREMENTS ASSOCIATED WITH NOTIFICATION UNDER SECTION 49-1002, RELEASE DETECTION UNDER SECTION 49-1003, REPORTING REQUIREMENTS UNDER SECTION 49-1004, FINANCIAL RESPONSIBILITY UNDER SECTION 49-1006, CLOSURE UNDER SECTION 49-1008, UNDERGROUND STORAGE TANK PERFORMANCE UNDER SECTION 49-1009, DELIVERY PROHIBITION UNDER SECTION 49-1097, THIS SECTION, AND THE RULES MADE THEREUNDER, AS APPLICABLE.

2. FOR A CLASS B INDIVIDUAL, THE REQUIREMENTS ASSOCIATED WITH RELEASE DETECTION UNDER SECTION 49-1003, REPORTING REQUIREMENTS UNDER SECTION 49-1004, UNDERGROUND STORAGE TANK PERFORMANCE UNDER SECTION 49-1009, DELIVERY PROHIBITION UNDER SECTION 49-1097, THE TRAINING REQUIREMENTS OF THIS SUBSECTION FOR A CLASS C INDIVIDUAL, AND THE RULES MADE THEREUNDER, AS APPLICABLE.

3. FOR A CLASS C INDIVIDUAL, INITIAL RESPONSE TO AN ALARM OR OTHER INDICATION OF AN EMERGENCY CAUSED BY A RELEASE OR SUSPECTED RELEASE FROM AN UNDERGROUND STORAGE TANK, INCLUDING PROCEDURES FOR CONTACTING A CLASS A OR CLASS B INDIVIDUAL AND ANY EMERGENCY RESPONDER.

G. OWNERS AND OPERATORS SHALL DOCUMENT THAT THE TRAINING REQUIREMENTS OF THIS SECTION HAVE BEEN MET FOR EACH PERSON WHO IS A CLASS A, CLASS B OR CLASS C INDIVIDUAL. TRAINING SHALL BE DOCUMENTED ON A FORM PRESCRIBED BY THE DEPARTMENT. TRAINING RECORDS SHALL BE MAINTAINED FOR A PERIOD OF NOT LESS THAN THREE YEARS AFTER THE TRAINING IS COMPLETED AND SHALL BE IMMEDIATELY AVAILABLE FOR INSPECTION BY THE DEPARTMENT UPON REQUEST.

H. THE DEPARTMENT MAY ADOPT RULES FOR IMPLEMENTING THE TRAINING REQUIREMENTS OF THIS SECTION.

ARTICLE 7. DELIVERY PROHIBITION

49-1096. DEFINITIONS

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "PRODUCT DELIVERER" MEANS A PERSON, INCLUDING AN OWNER, OPERATOR, OIL COMPANY, DISTRIBUTOR AS DEFINED IN SECTION 28-5601(8), SUPPLIER AS DEFINED IN SECTION 28-5601(30), PETROLEUM TRANSPORTATION COMPANY, AND OTHER ENTITIES, WHO DELIVER, DEPOSIT OR PLACE A REGULATED SUBSTANCE INTO AN UNDERGROUND STORAGE TANK.
2. "STOP-USE TAG" MEANS A TAG, DEVICE OR MECHANISM PRESCRIBED BY THE DEPARTMENT DESIGNED TO BE AFFIXED TO A FILL PIPE OF AN UNDERGROUND STORAGE TANK THAT CLEARLY STATES AND CONVEYS THAT IT IS UNLAWFUL TO DELIVER, DEPOSIT OR PLACE A REGULATED SUBSTANCE INTO THE UNDERGROUND STORAGE TANK TO WHICH IT IS AFFIXED.

49-1097. DELIVERY PROHIBITION

- A. ON AND AFTER JANUARY 1, 2009, A PRODUCT DELIVERER SHALL NOT DELIVER, DEPOSIT OR PLACE A REGULATED SUBSTANCE INTO AN UNDERGROUND STORAGE TANK THAT HAS A STOP-USE TAG FROM THE DEPARTMENT AFFIXED TO A FILL PIPE OF THE UNDERGROUND STORAGE TANK PURSUANT TO SUBSECTION B OF THIS SECTION.
- B. THE DEPARTMENT SHALL ISSUE A COMPLIANCE ORDER TO THE OWNER AND OPERATOR OF THE UNDERGROUND STORAGE TANK PURSUANT TO SECTION 49-1013, SUBSECTION A TO STOP OPERATION OF THE UNDERGROUND STORAGE TANK IF BOTH OF THE FOLLOWING EXIST:
 1. THE DEPARTMENT HAS DETERMINED THE UNDERGROUND STORAGE TANK TO BE IN VIOLATION OF SECTIONS 49-1003 OR 49-1009, AND THE RULES MADE THEREUNDER, AS APPLICABLE.
 2. THE CONTINUED OPERATION OF THE UNDERGROUND STORAGE TANK MAY INCREASE CONTAMINATION AT THE FACILITY.
- C. AFTER THE COMPLIANCE ORDER BECOMES FINAL PURSUANT TO SECTION 49-1013, SUBSECTION A, THE DEPARTMENT SHALL AFFIX A STOP-USE TAG ON ALL FILL PIPES OF THE UNDERGROUND STORAGE TANK IN SUCH A MANNER THAT THE STOP-USE TAG IS EASILY VISIBLE TO THE PRODUCT DELIVERER.
- D. THE OWNER AND OPERATOR OF AN UNDERGROUND STORAGE TANK THAT HAS RECEIVED A STOP-USE TAG PURSUANT TO SUBSECTION C OF THIS SECTION SHALL ENSURE THAT A PERSON DOES NOT REMOVE OR TAMPER WITH THE STOP-USE TAG UNTIL THE REQUIREMENTS FOR RETURN OF THE UNDERGROUND STORAGE TANK TO OPERATION PURSUANT TO SUBSECTION E OF THIS SECTION ARE MET, AND SHALL IMMEDIATELY EMPTY THE UNDERGROUND STORAGE TANK AND COMPLY WITH THE REMAINING TEMPORARY CLOSURE REQUIREMENTS PROMULGATED UNDER SECTION 49-1008.
- E. AN OWNER OR OPERATOR SHALL NOT BRING AN UNDERGROUND STORAGE TANK THAT HAS RECEIVED A STOP-USE TAG PURSUANT TO SUBSECTION C OF THIS SECTION BACK INTO

OPERATION UNTIL THE OWNER OR OPERATOR HAS DEMONSTRATED TO THE DEPARTMENT THAT THE UNDERGROUND STORAGE TANK MEETS THE REQUIREMENTS OF SECTIONS 49-1003 AND 49-1009, AND THE RULES MADE THEREUNDER, AS APPLICABLE, AND THE OWNER OR OPERATOR HAS RECEIVED WRITTEN CONFIRMATION FROM THE DEPARTMENT THAT THE REQUIREMENTS OF SECTIONS 49-1003 AND 49-1009, AND THE RULES MADE THEREUNDER, AS APPLICABLE, HAVE BEEN MET.

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